

- c. Losses from the operation of food and dormitory services may be included as cost incurred under b. above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to accomplishment of the above objective, are not allowable except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could economically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.
- d. In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (Except as provided in e.).
- e. Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under b. above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

8. Fringe Benefits

See Item 5.

9. Insurance and Indemnification

Insurance includes (1) insurance which the institution is required to carry, or which is approved, under the terms of the contract and (2) any other insurance which the institution maintains in connection with the general conduct of its business.

- a. Costs of insurance required or approved, and maintained, pursuant to the contract are allowable.
- b. Costs or other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:
 - (1) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances.

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- (2) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit.
 - (3) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage. Such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who have supervision or direction of (i) all or substantially all of the institutions business, or (ii) all or substantially all of the institution's operations at any one separate location in which the contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the contract.
 - (4) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.
 - (5) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. (See Item 5).
- c. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the contract, except:
- (1) costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and
 - (2) minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.
 - (3) indemnification includes securing the institution against liabilities to third persons and any other loss or damage not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in this section.

10. Labor Relations Costs

Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

11. Maintenance and Repair Costs

Costs incurred for necessary maintenance, repair, or upkeep of buildings, and equipment (including government property, unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life shall be treated as capital expenditures (See Item 6).

12. Materials Costs

- a. The cost of consumable supplies, and other materials necessary to carry out the objectives of a contract, are allowable subject to the provisions b. through e. below. Incoming transportation charges may be a proper part of material costs.
- b. Costs of material shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and material returned to vendors. Such income and other credits shall either be credited directly to the cost of the material involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.
- c. Reasonable adjustments arising from differences between periodic physical inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the contract.
- d. When the materials are purchased specifically for and identifiable solely with performance under a contract, the actual purchase cost thereof should be charged to that contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable. When estimates of material costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.
- e. Allowance for all materials, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materials, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

- (1) it is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public," or
- (2) it is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity. Provided, that in either case:
 - (a) the price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary, or affiliate of the institution under a common control) for a like quantity under comparable conditions, and
 - (b) the price is not determined to be unreasonable by the awarding agency.

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of contract requirements.

13. Other Business Expenses

Included in this item are such recurring expenses as preparation and publication of reports to members and trustees, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of director and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

14. Overtime, Extra-Pay Shift and Multi-Shift Premiums

Premiums for overtime, extra-pay shifts, and multi-shift work are allowable only with the approval of the Department except:

- a. when necessary to cope with emergencies, such as those resulting from accidents, natural disasters or breakdowns of equipment;
- b. when employees are performing indirect functions such as with administration, maintenance, or accounting;
- c. when lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

- a. is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;
- b. is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;
- c. is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual contract project, or program, or for a division, department, or branch, as most practicable.

Where overtime premiums or shift premiums are being paid at Government expenses in connection with the performance of Government contracts the continued need therefore should be subject to periodic review by the awarding agency.

15. Pension Plans

See Item 5.

16. Plant Security Costs

Necessary expenses incurred to comply with Department security requirements or for facility protection, including wages, uniforms, and equipment of personnel, are allowable.

17. Professional Service Cost - Legal, Accounting, Scientific and Other

- a. Costs of professional and consultant services by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the provider agency, are allowable subject to b., c. and d. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Department.
- b. In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:
 - (1) the nature and scope of the service rendered in relation to the service required
 - (2) the necessity of contracting for the service, considering the institution's capability in the particular area

- (3) the past pattern of such costs, particularly in years prior to the award of Government work
 - (4) the impact of Government work on the institution's business (i.e., what new problems have arisen)
 - (5) whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to ~~WORK UNDER~~ Government contracts
 - (6) whether the service can be performed more economically by employment rather than by contracting
 - (7) the qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government contracts
 - (8) adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, termination provisions)
- c. Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.
 - d. Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the contract.

18. Rearrangement and Alteration Costs

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangements and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

19. Recruiting Costs

The following recruiting costs are allowable: costs of "help-wanted" advertising, operating costs of an employment office, costs of operating an educational testing program, travel expenses including food and lodging of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment. Where the provider agency uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

Recruiting costs are subject to the following criteria:

- a. costs of help-wanted advertising that includes color, advertising material for other than recruitment, or is excessive in size are unallowable.
- b. costs of excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.
- c. where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

20. Relocation Costs

Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee.

Relocation costs are allowable only if formally approved by the Department and the move is for the benefit of the employer and the costs are not otherwise unallowable. Reimbursement shall not exceed the employee's actual or reasonably estimated expenses and is in accordance with established policy or practice designed to motivate employees to relocate promptly and economically.

Allowable relocation costs may include, but are not limited to the following:

- a. transportation of the employee, members of his immediate family and his household and personal effects to the new location.
- b. finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period (provided the transition period is kept to a minimum and does not exceed a cumulative total of 30 days including advance trip time).
- c. closing costs (i.e., brokerage fees, legal fees, appraisal fees) incident to the disposition of housing (provided the costs do not exceed 8% of the sales price of the property sold).

- d. other necessary and reasonable expenses incident to relocation, such as costs of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damage to personal property.

Relocation costs related to the acquisition of a new home in a new location (i.e., brokerage fees, legal fees, appraisal fees) and the loss of sale of home are not allowable.

21. Rental Costs

- a. Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leases, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities. A rental charge cannot be made to the contract if the building or equipment is owned by the institution. Instead a depreciation of use charge may be utilized. (See Item 6)
- b. Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance; provided, that no part of such costs shall duplicate any other allowed costs.
- c. Unless otherwise specifically provided in the contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the contractor would have received had it retained legal title to the facilities.
- d. Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers of other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.
- e. The allowability of rental costs under unexpired leases in connection with terminations is treated in Item 24.

22. Severance Pay

- a. Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by:
 - (1) law;
 - (2) employer-employee agreement;
 - (3) established policy that constitutes, in effect, an implied agreement on the institution's part; or
 - (4) circumstance of the particular employment.
- b. Costs of severance payments are divided into two categories as follows:
 - (1) Actual normal turnover severance payments shall be allocated to --all work performed in the institution's facilities; or where the institution provides for accrual of pay for normal severances, such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities.
 - (2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

23. Taxes

- a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:
 - (1) federal income taxes and similar levies against income of the institution derived from activities unrelated to the project supported by the contract;
 - (2) taxes in connection with financing, refinancing, or refunding operations (See Item 8);

- (3) taxes from which exemptions are available to the institution directly or available to the institution based on an exemption afforded the Government except when the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government;
 - (4) special assessments on land which represent capital improvements; and
 - (5) taxes on any category of property which is used solely in connection with work other than on Government contracts (unless the amounts involved are insignificant or comparable results would otherwise be obtained.)
- b. Taxes determined allowable but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:
- (1) promptly requests instruction from the awarding agency concerning such taxes, and
 - (2) takes all action directed by the awarding agency or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to determine the legality of such assessment, or secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the non-payment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request, are also allowable.

- c. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution has been reimbursed by the Government for the taxes, interest or penalties.

24. Termination Costs

Contract terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. However, if a contract is terminated for cause or default, costs resulting from termination are unallowable.